THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.448 of 2000 &
W.P.No.16788 of 2003

COMMON ORDER:

W.P.No.448 of 2000

This writ petition is filed challenging the award made in I.D.No.294 of 1997 dated 7.9.1999 on the file of the first respondent-Labour Court.

The petitioner is the management and second respondent is workman. It appears, second respondent was appointed as a Driver in the petitioner- Corporation with effect from 26.10.1973.

It is the case of the second respondent-workman that at the time of his joining in the Corporation, he produced a Transfer Certificate issued by the School authorities showing his date of birth as 1.7.1948. While so, he was also elected as Divisional Secretary, R.T.C. Employees Transport Mazdoor Sangh and espousing the cause of the workers. Therefore, the management bore grudge against him and waiting for an opportunity to initiate action against the petitioner. While that being so, on 1.5.1997, he received a notice indicating that he had to retire from service on the afternoon of 31.10.1997. Aggrieved by the same, he filed W.P.No.11466 of 1997 before this Court and this Court disposed of the said writ petition directing the workman to approach the Labour Court and work out his remedies. Therefore, he raised a dispute under Section 2-A(2) of the I.D. Act before the first respondent-Labour Court. It was the contention of the workman that his date of birth is 1.7.1948 and not 23.10.1939 as recorded by the authorities in the service record. At the time of joining service, he was referred to a Medical Officer as to his fitness and the Medical Officer while issuing fitness certificate on 23.10.1973, mentioned his age as 34 years and basing on the same, management recorded his date of birth as 23.10.1939. The management filed a detailed counter contending that the

workman did not submit any School certificate to show his date of birth. At the time of joining into service, petitioner was referred to Medical Officer, who assessed his age as 34 years as on 23.10.1973. In fact, earlier also he made a representation in this regard, which was rejected and in spite of the same, he raised the dispute.

Before the Labour Court, the workman himself was examined as W.W.1 and marked document Ex.W1-extract of admission register of Municipal Urdu Elementary School, Kadakpura. On behalf of management, none were examined and no documents were marked. After detailed consideration of the material placed before it, the Labour Court came to the conclusion that the date of birth of the petitioner, in the light of Ex.W1, is 1.7.1948 and thus, directed the management to reinstate the workman with continuity of service, but without any back wages. Aggrieved by the same, management filed the present writ petition.

The learned counsel for petitioner-management strenuously contended that the second respondent was appointed as Driver in the Petitioner-Corporation on 26.10.1973 and since he did not produce any certificate in proof of his age, he was sent to medical examination. The Medical Officer who examined the workman, assessed his age as 34 years as on 23.10.1973, therefore, his date of birth was recorded as 23.10.1939 in the service record. In fact, the workman made a representation in the year 1983 and the same was rejected. In spite of the same, he raised a dispute before the Labour Court at the fag end of his service and the Labour Court without properly appreciating the evidence on record, erroneously held that the date of birth of the workman is 1.7.1948 instead of 23.10.1939.

The learned counsel for respondent-workman supported the award passed by the Labour Court and submitted that the Labour Court has not committed any error calling interference of this Court. The Labour Court declared the date of birth of the workman as 1.7.1948 on the basis of valid evidence placed before it, therefore, no interference can be made into such

an award passed by the Labour Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. In fact, the management neither examined any witness nor marked any documents on its behalf. Though the management contended that for the purpose of assessing the age of the workman, he was referred to Medical Officer on 23.10.1973 and the Medical Officer assessed his age, as 34 years and issued a certificate to that effect, but the same was not placed before the Labour Court. On the other hand, the second respondent examined himself as W.W.1 and filed Ex.W1 which is the extract of admission register of Municipal Urdu Elementary School, Kadakpura (page No.91 and 92) showing his date of birth as 1.7.1948. The original certificate which is marked before the Labour Court shows that the said certificate was issued in the year 1977 by the Head Master of Municipal Urdu Elementary School, Kadakpura, which was verified and certified to be correct by the Deputy Inspector of Schools, Kurnool district and further counter-signed by the District Educational Officer, Kurnool. As per the said certificate, the petitioner was aged about 25 years as on the date of his appointment in the year 1973. It is not the case of the management that the said certificate was a fabricated one.

Under those circumstances, I am of the opinion that the award passed by the Labour Court does not suffer from any legal infirmity calling interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and liable to be dismissed.

W.P.No.16788 of 2003

This writ petition is filed by the workman seeking further relief of back

wages from the date of his termination till the date of reinstatement. In the facts and circumstances of the case, the Labour Court after having considered the matter, came to the conclusion that the petitioner is entitled for reinstatement with continuity of service, but without any back wages. Accordingly, the petitioner was reinstated and thereafter on attaining the age of superannuation, he retired from service with effect from 31.7.2006. It appears, the Labour Court denied the back wages in view of the fact that the petitioner approached the Labour Court at the verge of his retirement. Therefore, I am of the opinion that the petitioner is not entitled for any further relief and the writ petition is liable to be dismissed.

For all the reasons stated above, both the writ petitions are dismissed. No order as to costs.

_____

C.V.RAMULU,
J

Date: 20.4.2007
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.448 of 2000 &
W.P.No.16788 of 2003

20.4.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.448 of 2000 &
W.P.No.16788 of 2003

Date: 20th April, 2007

W.P.No.448 of 2000

Between:

The Depot Manager,
APSRTC, Kurnool-I Depot.

.. Petitioner

And

The Presiding Officer,
Labour Court, Ananthapur & another.

.. Respondents

W.P.No.16788 of 2003

Between:

S.Faizuddin

.. Petitioner

And

The Industrial Tribunal-cum-Labour Court,
Ananthapur, rep. by its Presiding Officer
and another.

.. Respondents